(1991) 02 AHC CK 0053

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 580 of 1980

LAXMI DEVI JAIN APPELLANT

Vs

WEALTH-TAX OFFICER AND ANOTHER. RESPONDENT

Date of Decision : 18-02-1991

Acts Referred:

Citation : (1992) 193 ITR 154

Hon'ble Judges : B. P. Jeevan Reddy, C.J;B. P. Jeevan Reddy C. J., J

Bench : Division Bench

Final Decision : Allowed

Judgement

B. P. JEEVAN REDDY C. J., - Validity of reference to the Valuation Officer under sub-section (1) of section 16A of the Wealth-tax Act is challenged in this case. The assessment years concerned herein are 1969-70, 1975-76, 1977-78 and 1978-79. The writ petition was occasioned by a notice issued by the Valuation Officer on June 16, 1980, stating the valuation of the property known as "Agarwal Building" situated on plots Nos. 4, 5, 6 and Survey No. 419/1, The Mall, Kanpur, has been referred to him by the Wealth-tax Officer u/s 16A(1) of the Act determining the fair market value of the assets as on March 31, 1969, to March 31, 1978, except March 31, 1973. The petitioners case is that, on the said date, no reassessment proceedings were pending with respect to any of the four assessment years. It is submitted that she had filed returns for the first two assessment years and that assessment proceedings were completed period to June, 10, 1980, the date on which reference to the Valuation Officer was made u/s 16A(1). It is further submitted that, with respect to other two assessment years, no returns were filed by the assessee and no proceedings for assessment or reassessment were also pending on the relevant date, viz., June 10, 1980. It is submitted that reference can be made u/s 16A(1) only where a proceeding for assessment or reassessment is pending and not in a case where no such proceedings are pending. An identical contention has been upheld by us in Civil Miscellaneous Writ Petition No. 622 of 1980, V. K. JAIN Vs. WEALTH-TAX OFFICER

AND ANOTHER., decided on February 6, 1991. Following the said judgment, we allow this writ petition as well. We may state that the basic facts stated above are not disputed in the counter-affidavit.

The writ petition is allowed. No costs.

It is made clear that this order does not preclude the Wealth-tax Officer from making such reference if any assessment or reassessment proceedings are pending with respect to any assessment year.